

ARTICLE 3.

ZONING

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Zoning

Sec. 3.1. General Provisions.

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

1. Uniformity of regulations. The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Code, the following interpretations shall apply:
 - a. No buildings, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, changed, constructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located. Where a lot is divided by a zoning district boundary line by the current official zoning map or by subsequent amendments to the zoning map, the zoning requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.
 - b. No building or other structure shall be erected or altered:
 - (1) To exceed the height limitations;
 - (2) To accommodate or house a greater number of families;
 - (3) To occupy a greater percentage of the area;
 - (4) To have narrower or smaller rear yards, front yards, side yards or other open spaces.
 - c. No part of a yard, other open space or off-street parking or loading space required or in connection with any building for the purpose of complying with this Code shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building unless specific exception therefore is stated in this Code.
 - d. No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.
 - e. Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4.1 is hereby specifically prohibited from that zone.
2. Conflict with other provisions of law. Whenever the requirements of this Code are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.
3. Conflict with private covenants or deeds. In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town shall be limited to the enforcement of this Code.
4. Zoning of annexed territory.
 - a. Zoning of land during annexation shall be done in accordance with the procedure and notice requirements of this Article. The proposed zoning ordinance shall not be passed before the date when the annexation ordinance is passed.

Sec. 3.2. Zoning Districts and Boundaries.

1. The following zoning districts are hereby established. They may be referred to throughout the Land Use Code by their name or district letter abbreviations.
 - a. Residential Zoning Districts

(1)	R-E	Estate District
(2)	R-1	Residential Low Density District
(3)	R-2	Residential Medium Density District
(4)	R-3	Residential High Density District
(5)	R-MH1	Manufactured Home District 1
(6)	R-MH2	Manufactured Housing Development District 2
 - b. Commercial Zoning Districts

(1)	C-D	Downtown Commercial District
(2)	C-N	Neighborhood Commercial District
(3)	C-C	Community Commercial District
(4)	C-H52	Mixed Used Highway 52 District
(5)	C-E	Employment District
 - c. Industrial Zoning Districts

(1)	BLI	Business Light Industrial District
(2)	I	Industrial District
 - d. Special and Overlay Zoning Districts

(1)	A	Agricultural District
(2)	P	Public District
(3)	H-O	Hazard Overlay District
(4)	PUD-O	Planned Unit Development Overlay District
2. Zoning District Map. The boundaries and classifications of districts established are as depicted on a map entitled Zoning District Map, Town of Frederick, as may from time to time be revised, updated or redrafted. The Official Zoning Map shall be that map bearing the most recent date of publication and which has been signed by the Planning Director.
3. Changes to Map/Amendments. All amendments to the zoning map shall be made by ordinance. The Planning Director shall, within a reasonable time after adoption of any such amendment by the Board of Trustees, revise the prior existing Official Zoning Map to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. The Official Zoning Map shall be that map bearing a table containing the date, initials of the person who checked and approved the change, number of the ordinance amending it, and signed by the Planning Director.
4. Annexation. No annexation of property to the Town shall become final until designation of a zoning classification for the property to be annexed has been established.
5. Boundary lines
 - a. Zoning district boundaries. In the event uncertainty is deemed to exist on the zoning district map, district boundaries shall be on section lines, lot lines, the centerlines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the map. Where a lot is divided by a zoning district boundary line at the time of enactment of the ordinance codified in this Article or by subsequent amendments to that ordinance or this Article,

either zone requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.

- b. Hazard Overlay District boundaries.
 - (1) Data verified from the Colorado Geological Survey on geological hazards; and
 - (2) Data verified from the Colorado Water Conservation Board, Federal Emergency Management Agency (FEMA) or the Board of Trustees on flood prone areas.
- 6. Cost for Amending Zoning. Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the official zoning map, including all notification costs. The Town shall provide the applicant with a copy of the current fee schedule and fee agreement form.
- 7. Public Inspection Availability of the Official Zoning District Map shall be available and on display at the Town Hall during normal business hours.

Sec. 3.3. Zoning Districts

- 1. List of Residential Zoning Districts/Specific Purposes
 - a. R-E Estate District, Large Lot With Common Open Space
 - (1) Intent. This is a very low-density residential district intended to encourage the preservation of open space, natural features and agricultural land in conjunction with the clustering of single-family detached dwellings.
 - b. R-1 Residential Low Density District
 - (1) Intent. This is a low-density housing district intended primarily for single-family uses on individual lots. This zone is characterized by tree-lined local streets, interconnected pedestrian circulation system and proximity to schools and parks.
 - c. R-2 Residential Medium Density District
 - (1) Intent. This medium-density residential zone is intended to preserve the traditional building pattern of mixed residential development, which historically has been integrated to form a vibrant, active and cohesive neighborhood unit. This District provides for attached residential dwelling units in addition to single-family detached dwelling units.
 - d. R-3 Residential High Density District
 - (1) Intent. This is a high-density residential zone intended primarily for multi-family uses on individual lots. In order to facilitate appropriate higher densities near viable business centers, multi-family buildings are generally encouraged near a neighborhood commercial center (i.e., B-1 Business District, C-N Commercial Neighborhood District, C-C Community Commercial District or MU-R Mixed Use Residential District). Street and open space designs in these areas shall be used to create compatibility among frontages, which encourage pedestrian interaction and discourage high automobile speeds. Multi-family residential developments shall be designed around or adjacent to open space (refer to Article 2, Section 13 for details).

- e. R-MH1 Manufactured Home District 1
 - (1) Intent. This is a high-density residential district on a parcel of land under single ownership or control on which two (2) or more manufactured homes are occupied as residences.
- f. R-MH2 Manufactured Housing Development District 2
 - (1) Intent. This is a low density residential zoning district intended primarily for single-family uses on individual lots within a subdivision, consisting of dwellings partially or entirely manufactured in a factory.

2. Commercial Zoning Districts

- a. C-D Commercial District, Downtown
 - (1) Intent. The Commercial District, Downtown is intended to reflect the character of the original downtown and to provide for a mixture of uses that will strengthen and expand the core community.
- b. C-N Commercial District, Neighborhood
 - (1) Intent. The Commercial District is intended to provide for the development of a mixed use commercial center to serve the convenience shopping and service needs of the neighborhood, as well as provide a location for community facilities. This District is intended to serve as a focal point for pedestrian activities within a neighborhood and should be scaled in size to the surrounding neighborhood. Individual buildings are encouraged to be mixed vertically with street-level commercial and upper-level office and/or residential.
- c. C-C Commercial District, Community
 - (1) Intent. This is a commercial district intended to provide for the location of auto-oriented and auto-dependent uses and/or uses which provide a wide range of general retail goods and services for residents of the entire community, as well as businesses and highway users, primarily inside of enclosed structures.
- d. C-H52 Mixed Use Commercial-Highway 52 District
 - (1) Intent. The C-H52 District is intended to be a setting for development of a wide range of community and regional retail uses, offices and personal and business services. Secondly, it can accommodate a wide range of other uses, including multi-family housing and mixed use dwelling units. The C-H52 District is intended to integrate various commercial and multi-family uses while transitioning from the highway to adjacent lower density neighborhoods.
 - (2) While some C-H52 District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the Town's intent that the C-H52 District emphasizes safe and convenient personal mobility in many forms, with planning and design that accommodates pedestrians. Further, the C-H52 District is intended to function with, rather than compete with, the downtown area.
- e. C-E Employment District
 - (1) Intent. The Employment District is intended to provide locations for a variety of workplaces including light industrial uses, research and development activities, offices and institutions. The Employment District also is intended to accommodate secondary uses that complement or support the primary workplace uses, such as hotels, restaurants, convenience shopping, child care and housing. Additionally, the Employment District is intended to encourage the development of planned office and

business parks; to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes; to direct the development of workplaces consistent with the availability of public facilities and services; and to continue the vitality and quality of life in adjacent residential neighborhoods.

3. Industrial Zoning Districts

a. BLI Business/Light Industrial District

- (1) Intent. This zoning district is intended to provide locations for a variety of workplaces, including light industrial uses, research and development offices and institutions. This District is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, child care and housing.
- (2) Additionally, this District is intended to encourage the development of planned office and business parks; and to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes.

b. I Industrial District

- (1) Intent. This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations. The I District also accommodates complementary and supporting uses such as convenience shopping and child care centers. Locations for this District require good access to major arterial streets and adequate water, sewer and power.

4. Special and Overlay Zoning Districts

a. A Agricultural District

- (1) Intent. This is an ultra-low-density district intended for the pursuit of farm activities and limited animal raising and grazing activities or for transitional status. This zone is characterized by growing crops, raising animal livestock and related functions.

b. P Public District

- (1) Intent. This District is intended to identify and perpetuate the existence of public parks, playgrounds, recreation facilities and public and quasi-public buildings, whether publicly owned or leased.

c. H-O Hazard Overlay District

- (1) Intent. This District is to be used where known geologic and floodprone areas exist, as illustrated by the *Environmental Constraints Map* in the Comprehensive Plan. It shall be used as an overlay to any other zone.
- (2) Principal uses. Principal permitted uses in the H district shall be as follows:
 - (a) Any use set forth in the existing zone, provided that the hazard has been mitigated to the satisfaction of the Planning Commission and the Board of Trustees, and only by conditional use review.
 - (b) Parks and open space.
- (3) Conditional uses. Uses requiring conditional use review shall be as follows:
 - (a) Golf courses.
 - (b) Limited outdoor recreation facilities.
 - (c) Resource extraction, processes, and sales establishment.

- (4) Special uses. Uses requiring special use review shall be as follows:
 - (a) Gas, oil, and other hydrocarbon well drilling and production (as permitted by state and local regulations).
- d. PUD-O Planned Unit Development Overlay District
 - (1) Intent. The Planned Unit Development (PUD) Overlay District is enacted pursuant to the Planned Unit Development Act of 1972, as amended (Section 24-67-101-108, C.R.S.). The PUD is intended to be used as an overlay zone district that supplements the underlying standard zone district. The intent and purpose of this District is to permit and encourage innovative design and high quality, master-planned developments on large parcels of land. This District is created to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.
 - (2) Permitted uses. Uses permitted in the PUD Overlay District shall be those uses permitted in the underlying standard zone district for the property. An applicant for a PUD Overlay District may request modifications to the permitted uses of the underlying zone district to remove those uses that may be deemed incompatible or inappropriate for the overall PUD development. Conditional uses may be permitted if it can be demonstrated that such uses meet the conditional use review criteria for the underlying zone district.
 - (3) The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control or a unified plan of development.
 - (4) Areas designated as private streets and/or common open space, including land, an area of water or a combination of land and water within the site designated for a PUD, shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.
 - (5) All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space, or other standards within the existing land use regulations, except those development standards that are not open to modification (see Article 4 Section 15).
- e. PUD approval procedure.
 - (1) All PUD Overlay District applications shall be submitted and processed simultaneously with the processing of subdivision applications for the property. The processes set forth in Sections 4.5 through 4.8 of this Code for major subdivisions shall be followed, including all preapplication conferences, Planning Commission visioning meetings, sketch plan, preliminary plat and final plat applications, and all required public hearings. Scheduling requirements for PUD applications shall match those specified for sketch plans and preliminary and final plats. In addition, an application for a PUD Overlay District amendment to the official zoning map shall be processed and subject

to public hearings in the same manner as for other amendments to the Official Zoning Map, as outlined in Section 3.10 of this Code.

- (2) Rezoning to a PUD Overlay District shall occur concurrently with a preliminary plat/preliminary PUD development plan. Public hearings for the zoning of a property as a PUD Overlay District and for preliminary PUD development plan approval may be combined or can occur separately. Development within a PUD Overlay District cannot occur unless and until a final plat for the portion of the property to be developed has been approved and recorded as provided in Article 4, Subdivision Regulations.
- (3) Upon approval of a final PUD development plan, the Town, through its Board of Trustees, shall adopt an ordinance establishing the PUD Overlay District for the property in accordance with that plan.
- (4) In addition to all of the information required as part of the sketch plan, preliminary plat and final plat application packages (as specified in Sections 4.5 through 4.8), applications for a PUD development plan and PUD Overlay District shall include additional information as outlined below.

f. Sketch PUD development plan application submittal requirements.

- (1) PUD application fee.
- (2) Written PUD description as part of the general development information, which includes:
 - (a) List all subdivision regulation exceptions proposed for the PUD.
 - (b) Identify the underlying zoning district for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the district. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 3.6) will be addressed.
 - (c) Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested (i.e., if the minimum lot size is decreased, additional functional, centrally located common open space will be provided; or, if the width of the local street right-of-way is decreased by eliminating on-street parking, then there will be designated parking areas within five hundred (500) feet of all residences, etc.). All proposed benefits must offset the proposed modifications.
 - (d) Explain how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe any proposed buffering techniques which serve to achieve such compatibility.
 - (e) Provide any additional relevant information which the Town may deem necessary.

g. Preliminary PUD development plan application submittal requirements.

- (1) PUD application fee.
- (2) Written PUD description as part of the general development information which includes:
 - (a) List all subdivision regulation exceptions being proposed for the PUD and explain why such exceptions are justified.
 - (b) Identify the underlying zoning district for the property and describe any proposed modifications and/or restrictions to the allowed uses and/or standards within the district. Provide a comparison between the proposed preliminary PUD plan to the elements and standards of the underlying zone district as contained in this Code. If any conditional uses are requested, explain how the conditional use review criteria (refer to Section 3.6) will be addressed.
 - (c) Describe how the proposed PUD overlay rezoning satisfies one (1) or more of the criteria for amendments to the Official Zoning Map (Section 3.10).

- (d) Identify and explain the benefits which will be provided by the PUD to offset the impact of the modifications requested. The proposed benefits must offset the proposed modifications.
 - (e) Explain how the proposed PUD will be compatible with adjacent neighborhoods which now exist or are proposed in the future. Describe buffering techniques which serve to achieve such compatibility.
 - (f) An explanation of how the preliminary PUD development plan is consistent with the sketch PUD development plan or, if there are differences, the rationale for the changes.
 - (g) Draft copies of owners' association documents (covenants, conditions, restrictions and any architectural design guidelines) that provide an acceptable program for the continuing maintenance of open space, recreational areas, walkways and private streets within the PUD; that detail the type of organizational structure responsible for such ongoing maintenance; and that provide for architectural review based on the design guidelines.
 - (h) Provide any additional relevant information which the Town may deem necessary.
 - (3) Preliminary PUD development plan map. Prepare the preliminary PUD development plan map using the preliminary plat map as the base. Refer to Section 4.6 of this Code for drawing standards and format. Include on the base a clear graphic and/or written representation of:
 - (a) All principal, conditional and accessory uses within each land use category within the PUD; i.e., single-family, multi-family, commercial, etc., either listed specifically or by reference to the zoning districts within the Town. In particular, note any modifications to the principal, conditional and accessory uses of the underlying zone district.
 - (b) Standards for principal and accessory uses within each land use category, to include:
 - i. Minimum lot area.
 - ii. Maximum lot coverage.
 - iii. Maximum floor area ratio (total floor area to total lot area).
 - iv. Maximum building height.
 - v. Parking requirements for principal, accessory and conditional uses.
 - vi. Provide any additional relevant information which the Town may deem necessary.
 - (4) Proposed phasing for the development.
- h. Final PUD development plan application submittal requirements.
- (1) PUD application fee.
 - (2) Written PUD description as part of the general development information, based on the materials submitted for the preliminary PUD development plan and on comments received from the Town at the time of preliminary plan review. Include all of the items listed above for the preliminary PUD development plan, in finalized form. Also include an explanation of how the final PUD development plan is consistent with the preliminary PUD development plan or, if there are differences, the rationale for the changes.
 - (3) Final PUD development plan map. Prepare the final PUD development plan map using the final plat map as the base. Refer to Section 4.7 of this Code for drawing standards and format. See the Workbook for sample certificates for the owner, Planning Commission, Board of Trustees and Clerk and Recorder. Include on the base a clear graphic and written representation of all of the information/items required for a preliminary PUD development plan as listed above, in finalized form.
 - (4) Provide any additional relevant information which the Town may deem necessary.

- i. PUD review criteria.
 - (1) Sketch PUD development plan review criteria. The following review criteria will be used by the Town staff, Planning Commission and Board of Trustees to evaluate all PUD applications at the time of sketch PUD plan/sketch plan review:
 - (a) The proposed benefits offset the proposed exceptions to the Zoning and Subdivision standards, and that such exceptions are in the best interest of the public health, safety and welfare.
 - (b) The proposed PUD conforms to the PUD restrictions, and the proposed zoning is compatible with the surrounding land uses.
 - (c) The PUD proposes creative and innovative design and high quality development, thereby protecting and promoting public safety, convenience, health and general welfare.
 - (d) The uses and densities in the proposed PUD are compatible, and will be effectively integrated with adjacent neighborhoods which now exist or are proposed in the future.
 - (e) The proposed PUD is in general conformance with the Comprehensive Plan.
 - (f) One (1) or more of the criteria for amendment of the official zoning map has been satisfied.
 - (2) Preliminary PUD development plan review criteria. In addition to all of the review criteria for a sketch PUD development plan, the following review criteria will be used by the Town staff and Board of Trustees to evaluate all PUD applications at the time of preliminary PUD plan/preliminary plat:
 - (a) The preliminary PUD development plan is substantially consistent with the sketch development plan as approved by the Board of Trustees.
 - (b) All sketch PUD development plan conditions of approval have been adequately addressed on the preliminary PUD development plan.
 - (3) Final PUD development plan review criteria. In addition to all of the review criteria for a preliminary PUD development plan, the following review criteria will be used by the Town staff and Board of Trustees to evaluate all PUD applications at the time of final PUD plan/final plat:
 - (a) The final PUD development plan is substantially consistent with the preliminary PUD development plan as approved by the Board of Trustees.
 - (b) All preliminary PUD development plan conditions of approval have been adequately addressed on the final PUD development plan.
- j. Compliance with PUD Overlay District/final development plan. The Board of Trustees may initiate the process to repeal the ordinance establishing the PUD Overlay District if:
 - (1) The project for which the PUD Overlay District was established is not carried out pursuant to the approved final PUD development plan; provided, however, that the Board of Trustees may approve appropriate modifications to the final PUD development plan from time to time prior to completion of the proposed development; or
 - (2) Building activity for the PUD Overlay District has not commenced within a period of one (1) year after the effective date of the creating ordinance, unless otherwise approved by the Board of Trustees.

Sec. 3.4. Matrix of Permitted, Conditional, and Special Uses by Zoning District.

1. General application of uses.
 - a. P – Permitted Principal Use
Uses designated as "permitted uses" are allowed in a zone district as a matter of right.
 - b. C – Permitted Conditional Use
Uses classified as "conditional uses" are permitted upon the Board of Trustees' approval of a conditional use permit.
 - c. S – Special Use
Uses classified as a "special use" are permitted upon the Board of Trustees approval through a special review.
 - d. Blank Cell
Unless a use is designated as a "permitted use" or "conditional use" or is classified as a legal "nonconforming" structure or use, it is not permitted. Land uses not otherwise identified in this Code may be proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. Unless such determination is made, the use is not permitted.
 - e. The numbers of additional regulations shown in the right-hand column relate to regulations that can be found following the Table of Permitted Uses. These standards are in addition to the general criteria applicable to all uses and to the general development and subdivision standards stated in Articles 2 and 4, respectively.

Table 3-1 Table of Permitted Uses																
Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited.																
PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	C-D	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
RESIDENTIAL USES																
Accessory buildings and accessory uses.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Accessory dwelling when associated with a permitted use.	P	P	P	P				P					C	C		(1),(2)
Group homes.		P	P	P	P			P	P		P	C				(3), C-E: (13)
Multi-family.					P			P			C	C				(4), C-E: (13)
Manufactured homes.						P										
Mixed use dwelling units.								P	P	P	P	P	P			C-E: (13)
Senior Housing.					P							P				C-E: (13)
Single-family detached dwellings.	P	P	P	P			P									
Single-family attached dwellings.				P	P			P			C	C				C-E: (13)
Two-family and multi-family dwellings.				P	P			P				C				(5), C-E: (13)

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	C-D	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
INSTITUTIONAL/CIVIC/PUBLIC USES																
Cemeteries.	C	C													P	
Church or place of worship and assembly.	C		C	C	C		C	P	P	P	P	C				
Community facilities.		C	C	C	C		C	P	P	P	C	P	P	P	P	C-E: (13)
Golf Courses.	P	C	C	C	C		C	C	C	C	C	C	C	C	P	
Parks and Open Space	P	P	P	P	P		P	P	P	P	P	P	P	P	P	
Schools for kindergarten, elementary, intermediate and high school education.																
1. Public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
2. Private	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	(8)
Public and private schools including colleges, vocational training, and technical training.								C	P	P	C	P	P	C	C	
Public facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C-E: (13)
Transit facilities with repair or storage												C	C	P		(8)
Transit facilities without repair or storage.								P	P	P	P	P	P	P	P	(8)
BUSINESS/COMMERCIAL/RETAIL USES																
Adult uses, including product sales and entertainment.														C		
Artisan and photography studios and galleries.								P	P	P	C	P	C	C		C-E: (13)
Auto, RV, boat and truck sales										C	C	C	C	C		(15)
Auto, RV, boat and truck storage													C	P		(6)
Bars and taverns.								C	C	P	C	P	P	C		(8), C-E: (13)
Bed and breakfasts.				C	C			P	C	P	P	C				C-E: (13)
Boarding and rooming houses.					C			P	P		P	C				
Car washes.								C	C	P	P		P	P		(8)
Child care centers.	C				C			P	P	P	P	P	C	C		C-E: (13)
Clubs and lodges.								C	C	P	C	P	P	P		C-E: (13)
Convenience shopping and retail establishments with less than five thousand (5,000) square feet of gross floor area.								P	P	P	P	P				C-E: (13)

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	C-D	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
BUSINESS/COMMERCIAL/RETAIL USES (Continued)																
Entertainment facilities and theaters.								C	C	P	C	P	C	C		
Equipment rental establishments									P	P	P		P			(6)
Financial institutions								P	P	P	P	P				(8), (9)
1. Automatic teller machines (ATMs)																Off-site, drive-up ATM facility not located on same lot as principal use requires site plan review and compliance with (8) and (9).
Food catering or small food product production.								P		P	P	P	P			C-E: (13)
Funeral homes.										P	P	C	C			C-E: (13)
Gasoline stations.								C	C	P	P		P	P		(8)
Grocery store (small).								P	P	P	P		C			
Health and membership clubs.								P	P	P	P	P	P	P		C-E: (13)
Home occupations.	P	P	P	P	C	P	P	P	P	P		P				(16)
Hospitals.										C	C	P	P	C	C	(7)
Kennels – small animal boarding.	P	C												C		
Limited indoor recreation facilities.								P	P	P	P	P	C		P	(8)
Limited outdoor recreation facilities.	C	C	C	C	C			C	C	C	C		C	C	P	C-E: (13)
Lodging establishments.								C	C	P	P	P	C			
Long-term care facilities.					C			C	C	P	P	C	C			
Medical and dental offices and clinics.								P	P	P		P	C			(7)
Motor vehicle service and repair.																
1. Major										C			P	P		(8)
2. Minor								C		P	P		P	P		(8)
Nightclubs.										C	C	C	C			(8)
Open air farmers' markets.	P							P	P	P	P		C	C		(8)
Parking lots and parking garages as principal use.								C		C	C	P	P	P		(8)
Personal and business service shops.								P	P	P	P	P	C			C-E: (13)
Plant nurseries and greenhouses.	P									P	P	P	P	P		C-E: (13)
Print shops.											P	P				C-E: (13)

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	C-D	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
BUSINESS/COMMERCIAL/RETAIL USES (Continued)																
Professional offices, financial services and clinics.								P	P	P	P	P	P			(9)
Restaurants.								P	P	P	P	P	P	C		(8), C-E: (13)
1. Restaurants with outside eating area								P	P	P	P	P				(8)
2. Restaurants with drive-in facilities								C	C	C	C	C	C	C		(8), (9)
3. Restaurants with drive-through facilities										C	C	C	C	C		(8), (9)
Retail/Commercial establishments (large).										P	P	P				
Retail and supply yard facilities.										C	C		C	P		(6)
Supermarkets.										P	P	P				
Tourist facilities								P	P	P	P		P		P	
Veterinary facilities, small animal clinics.	P								P	P	P	P	P	P		(8)
Veterinary facilities, large animal clinics.	P													C		(8)
Veterinary hospitals.											C		C	C		(8), C-E: (13)
INDUSTRIAL USES																
Dry-cleaning plants.														C		
Enclosed mini-storage facilities.										C	C		C	P		(6)
Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations).	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	Article 9
Heavy industrial uses.														P		(6)
Light industrial (production, assembly and packaging).											C	P	P	P		(6), C-E: (13)
Manufacturing and preparing food products.														P		
Manufacturing, assembly or packaging of products from previously prepared materials.												P	C	P		(6), C-E: (13)
Manufacturing of electric or electronic instruments and devices.												P	C	P		C-E: (13)
Plumbing, electrical and carpenter shops.													P	P		(6)
Recycling facilities.														C	C	(6)
Research, experimental or testing laboratories.											C	P	C	P		C-E: (13)

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	C-D	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
INDUSTRIAL USES (Continued)																
Resource extraction, processes and sales establishments.	C													C	C	(6)
Sales and leasing of farm implements, heavy equipment sales, mobile/manufactured homes and heavy excavation equipment.														C		(6)
Satellite dish antennas greater than thirty-nine (39) inches in diameter.												P				C-E: (13), (14)
Warehouse, distribution and wholesale uses.													P	P		
Wireless telecommunications equipment.								P	P	P	P	P	P	P		C-E: (13), (14)
Wireless telecommunications facilities.												C	C	C		C-E: (13), (14)
Workshops and custom small industry.								C		C	P	P	P	P		C-E: (13)
AGRICULTURAL USES																
Common equestrian stabling and grazing.	P	P														(11)
Cultivation, storage and sale of crops, vegetables, plants, flowers and nursery stock produced on the premises.	P	P														
Farming, including but not limited to gardening, horticulture, fruit growing, growing of vegetables, trees, shrubs, plants, turf and sod.	P	P														
Ranching activities	P															(11)
Seasonal grazing of horses, cattle or sheep up to forty-five (45) days per year.	P															(10), (12)
Structures for storage of agricultural products produced on the premises.	P															

2. Specific Use Standards

a. General

(1) How to Use this Section

The use standards stated in Section 3.4.b below apply to specific permitted principal uses and correspond to the numbers shown in the “Additional Regulations” column in Table 3-1, Table of Permitted Uses. For example, if the number “1” appears in the Additional Regulations column of the Table, then the specific use standards stated in Section 3.4.b below apply.

(2) Standards are Supplemental

As applicable, the specific use standards stated in Section 3.4.b below are in addition to the general criteria applicable to all uses and to the general development and subdivision standards stated in Articles 2 and 4, respectively. In the case of any conflict between a specific use standard in Section 3.4b below and a general development standard as stated in other provisions of the Land Use Code, the specific use standard in Section 3.4b below shall apply unless otherwise expressly provided.

b. Specific Use Standards

- (1) Accessory dwelling units are limited to 850 square feet in floor area.
- (2) Only one accessory dwelling unit is allowed per lot.
- (3) Group homes are limited to a maximum of eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.
- (4) Number of multi-family units is limited to twenty-four (24) units per building.
- (5) No more than eight (8) units per building.
- (6) Outdoor storage, enclosed mini-storage facilities and/or auto, RV, boat and truck storage standards.
 - (a) All storage facilities should be located in areas with limited development opportunities, such as oil and well setbacks, areas of subsidence or areas with other physical land constraints that limit the development of structures.
 - (b) All storage, equipment and refuse areas shall be concealed from view from less intensive land uses, residential areas, abutting public rights-of-way and trails or trail corridors.
 - (c) All storage facilities shall be concealed through the use of a solid fence or wall that shall not have an uninterrupted length exceeding fifty feet (50'). The maximum height of the fence shall be eight feet (8'). Pilasters, brick, texture transitions and stepping of the fence planes are required. The use of additional landscaping (including plant materials and berming) that provides year-round screening of a sufficient height to further conceal all stored materials is required to prevent visual impacts on neighboring businesses, residential uses and the streetscape.
 - (d) Storage shall not be permitted within any applicable setback, public right-of-way or in landscaped areas.
 - (e) A minimum of twenty-five percent (25%) of the site must be maintained in live landscaped area.
 - (f) A fifty-foot (50') landscaped buffer is required along all perimeter streets.
 - (g) A minimum five-eighths-inch (5/8") water tap must be purchased to serve the lot.
 - (h) A mechanism for long-term maintenance of all fencing is required (i.e., owners' association or covenants).
 - (i) Storage facilities shall not be located within a three-mile (3) radius of an existing facility within the Town of Frederick or in another jurisdiction.

- (j) All buildings must utilize three (3) different types of building materials resulting in significant variation in the building facades. The building materials used for buildings, roofs, and other structures shall be compatible with the desired character of the zone.
- (k) Outdoor loudspeaker systems are prohibited.
- (7) Heliports and helipads are a permitted accessory use to hospitals, medical clinics, and medical centers.
- (8) Residential protection standards
 - (a) Purpose. The purpose of these standards is to promote the public health, safety, and welfare by protecting existing residential uses and established residential neighborhoods from the potentially adverse visual, noise, light, traffic, and other impacts arising from the development of new commercial, retail, industrial, or institutional/civic uses in close proximity. Accordingly, these standards seek to create a "transition area" between the edges of nonresidential and residential zoning districts and uses.
 - (b) Limitations on Permitted Uses. Notwithstanding the provisions of Article 3 Section 4 of this Chapter, including Table 3-1, Table of Permitted Uses, the following uses shall not be established or developed within the distance specified below of an existing residential use or of a residential zoning district. Residential zoning districts, for the purposes of this standard, shall include residential portions of a mixed-use development not located on the same lot as a non-residential use. Nothing in this subsection shall be interpreted to prohibit a lawfully operating use listed below from continuing its operation, if subsequent to the listed use's establishment, a residential use or zone district, or other protected use, is established or locates within the distances specified below.
 - Automobile Service Stations--No closer than 250 feet, excluding residential uses located in a non-residential zoning district;
 - i. Bars, taverns, and nightclubs--No closer than 250 feet, excluding residential uses located in a non-residential zoning district;
 - ii. Bus, Railroad, or Public Transit Terminal--No closer than 250 feet, excluding residential uses located in a non-residential zoning district;
 - iii. Indoor Shooting Range--No closer than 250 feet.
 - iv. Liquor Stores--No closer than 250 feet, excluding residential uses located in a non-residential zoning district;
 - v. Motor Vehicle Sales and Rentals--No closer than 250 feet, excluding residential uses located in a non-residential zoning district;
 - vi. Motor Vehicle Repair and Maintenance
 - 1. No closer than 250 feet for completely enclosed operations, excluding residential uses in a nonresidential zoning district;
 - 2. No closer than 500 feet for any outdoor repair and maintenance activity;
 - vii. Motor Vehicle Painting and Bodywork--No closer than 250 feet for completely enclosed operations and no closer than 500 feet for any outdoor activity;
 - viii. Outdoor Sales, Repairs, and Activities--No closer than 250 feet, excluding residential uses in a non-residential zoning district, except outdoor seating and food service areas for eating/drinking establishments as allowed in subsection 8(c) below;
 - ix. Private Airports--No closer than 1,000 feet;
 - x. Restaurants with Drive-In Facilities--No closer than 250 feet excluding residential uses in a non-residential zoning district; and

- xi. Transportation Depots, Trucking Terminals, and Distribution Centers--
No closer than 500 feet, excluding residential uses in a non-residential zoning district
- (c) Development & Operational Standards. All new development subject to this subsection shall comply with the following development standards. These standards are in addition to applicable use and development standards stated in this Article and Article 2.
 - i. Applicability. Except for uses more specifically limited in subsection 8.b above, the following residential protection standards apply to the specified use only when the proposed use is located either in a residential zoning district, or within 250 feet of a residential zoning district.
 - ii. Conflicting Provisions. When the provisions of this subsection conflict with the provisions found in other sections of this Development Code, the more restrictive provision shall apply.
 - iii. Operational Standards.
 - 1. Amplification of music, entertainment, or other noise emanating from the use that exceeds the noise standards in Chapter 10-198 of the Municipal Code shall not be allowed.
 - 2. The operator or owner shall control all litter generated by the use.
 - 3. Seating and food service may be provided on an outside patio or enclosure of a restaurant use, provided the patio or enclosure is no more than one-third the gross floor area of the principal use. Outdoor seating and food service must close by 10:00 p.m. Outside activity shall not be conducted between the hours of 10:00 p.m. and 7:00 a.m., and no delivery, loading, privately-contracted trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the Applicant submits evidence that such operations comply with the noise standards in Chapter 10-198 of the Municipal Code.
- (d) Parking, Access, and Circulation Standards. The off-street parking area for the use shall be a minimum of 15 feet from the lot line of adjacent properties zoned for residential purposes. The parking area shall be landscaped according to Article 2 Sections 16 and 17 and screened to prevent glare from vehicle headlights from intruding on adjacent residential properties.
- (e) Review of Uses Subject to this Subsection.
 - i. Uses Permitted By-Right ("P").
 - 1. Subject to Special Review Procedure. Uses subject to these residential area protection standards that are otherwise permitted by-right ("P") shall be reviewed according to the procedure stated in Article 4, "Special Review Use," of this Land Use Code. At the Planning Director's discretion, based on consideration of the proposed use's potential impacts on nearby residential uses, full conditional use review may be required.
 - 2. Review Criteria. All by-right uses subject to this provision shall be approved, approved with conditions, or denied based on their compliance with both the standards stated in this subsection for residential area protection, and the general review criteria and standards applicable to special review uses.

3. Conditional Uses. Uses subject to these residential area protection standards that are permitted as conditional uses ("C") shall be reviewed and approved according to Article 3 Section 6, "Conditional Uses." Approval or denial of the use shall be based on its compliance with both the standards stated in this subsection for residential area protection, and the general and applicable specific review criteria and standards stated in Article 3 Section 6.

(9) Vehicle stacking standards

- (a) The development and design standards of this subsection shall apply to all drive-in (drive-through) facilities and other auto-oriented uses unless otherwise expressly approved by the Decision-Making Body:

- i. Minimum Number of Vehicle Stacking Spaces: Off-street stacking spaces shall be provided as follows:

Table 3-2		
Activity Type	Minimum Stacking Spaces	Measured From: [1]
Bank teller lane	4	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	6	Order Box
Restaurant drive-through	4	Order Box to Pick-Up Window
Car wash stall, automatic	4	Entrance
Car wash stall, self-service	3	Entrance
Funeral home/mortuary	4	Primary Passenger Loading Area for Processions
Other	4	Pick-Up Window
Note [1]: Measured so that the driver's side window is centered on the teller, order box, or window, as applicable.		

- ii. Design and Layout. Required drive-through lanes and facilities and vehicle stacking spaces are subject to the following design and layout standards:

1. Vehicle Stacking Spaces.
 - a. Size. Vehicle stacking spaces must be a minimum of nine (9) feet by twenty (20) feet in size.
 - b. Location. Stacking spaces may not impede on- or off—site traffic movements, nor impede movements into or out of off-street parking spaces.
 - c. Design.
 - (1) Stacking spaces shall be separated from other internal driveways by raised medians if the Town Engineer deems the median necessary for traffic movement and safety.
 - (2) Vehicle stacking areas adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.
2. Drive-In (Drive-Through) Facilities and Lanes.
 - a. Location and Screening.
 - (1) Drive-in facilities (order stations, pick-up windows, bank teller windows, money machines, etc.) shall be

- located on the side or rear of principal structures to minimize their visibility from public streets.
- (2) To the maximum extent practicable, drive-in lanes shall not be located between the primary structure and adjacent public streets or sidewalks. If this is not possible, drive-in lanes and facilities shall be set back a minimum of twenty (20) feet from any adjacent public street or sidewalk. The entire twenty foot (20') setback must be landscaped and bermed to screen the drive-in lane and facility from adjacent streets.
- (3) Drive-in lanes adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.
- (4) Car wash facilities and gas station auto service bays shall be located on the side or rear of principal structures to minimize their visibility from public streets.
- (5) In addition to any buffering required by Article 2, drive-in lanes adjacent to residential uses shall be separated from such uses by an opaque wall at least six (6) feet high, located so that required buffer landscaping is between the wall and the adjacent residential use.
- (10) Animals within corrals must be at least one hundred feet (100') from any residence or retail sales building that exists. If a residence or retail sales building is constructed on the property, the corral must be relocated to a location at least one hundred feet (100') away from such structure.
- (11) Animal density is limited to two (2) per acre for horses, cattle, llamas, buffalo, and beefalo. At least one-half (1/2) acre of pasture is required for each animal. Sheep are limited to three (3) per acre.
- (12) Grazing must have existed during the two (2) preceding years immediately prior to annexation
- (13) Special Development Standards for the C-E District
 - (a) Secondary uses. Secondary uses in the Employment Zone shall be integrated both in function and appearance into a larger employment district development plan that emphasizes primary uses and are limited to twenty-five percent 25% of the total gross area of the overall plan. All secondary uses shall be subject to site plan review.
 - (b) Mix of housing types. A mix of permitted housing types shall be included in any development plan proposing residential uses as a secondary use. The following standards are intended to promote a variety of housing within such a development plan:
 - i. A minimum of two (2) housing types shall be required on any residential portion of a development plan greater than ten (10) acres but less than thirty (30) acres in size, including parcels which are part of a phased development. A minimum of three (3) housing types shall be required on any residential portion of a development plan greater than thirty (30) acres in size, including parcels that are part of a phased development. The following list of housing types shall be used to satisfy this requirement:

1. Single-family detached dwellings located on lots containing no more than six thousand two hundred fifty (6,250) square feet.
 2. Single-family attached dwellings.
 3. Two-family dwellings.
 4. Multi-family dwellings.
 5. Group homes.
 6. Mixed-use dwellings.
 - ii. A maximum of fifty percent (50%) of a residential portion of the project may be single-family detached housing.
 - iii. Lot sizes and dimensions shall be varied for different housing types to avoid monotonous streetscapes.
 - iv. The lot size and layout pattern shall be designed to allow residences to face toward a street.
- (c) Access to a park, central feature, or gathering place. Within any development proposal that contains a residential component, at least ninety percent (90%) of the dwellings of a residential development proposal shall be located within one thousand three hundred twenty (1,320) feet (one-quarter [$\frac{1}{4}$] mile) of either a neighborhood park, a privately owned park or a central feature or gathering place that is located either within the project or within an adjacent development, which distance shall be measured along street frontage without crossing an arterial street. Such parks, central features or gathering places shall contain one (1) or more of the following uses:
- i. Public parks, recreation areas or other open lands.
 - ii. Privately owned parks meeting the following criteria:
 1. Size. In development projects greater than two (2) acres in gross area, such private parks must be a minimum of ten thousand (10,000) square feet. In development projects with a gross area of two (2) acres or less, such private parks must be a minimum of six percent (6%) of the gross site area.
 2. Location. Such parks must be highly visible, secure settings formed by the street layout and pattern of lots and easily observed from streets. Rear facades and rear yards of dwellings shall not abut more than two (2) sides or more than fifty percent (50%) of the perimeter frontage of the park.
 3. Accessibility. All parts of such parks shall be safely and easily accessible by pedestrians, and open to the public.
 4. Facilities. Such parks shall consist of multiple-use turf areas, walking paths, plazas, pavilions, picnic tables, benches or other features for various age groups to utilize.
 5. Ownership and maintenance. Such parks shall be privately owned and maintained by the developer or property owners' association.
 6. Storm drainage. When integrating storm drainage and detention functions to satisfy this requirement, the design of such facilities shall not result in slopes or gradients that conflict with other recreational and civic purposes of the park.
 - iii. Community facilities or neighborhood support/recreation facilities (which are permitted as an accessory use to housing). If such facility is smaller than the required minimum size for privately owned parks as required in subparagraph 2 above, then the facility shall be physically

integrated with such park space as needed to meet the required minimum size.

- (d) Limit on use outside buildings. Except for off-street parking and loading areas, all veterinary hospitals and all industrial uses shall be carried out entirely within completely enclosed buildings or structures.
 - (e) Building design. To the extent reasonably feasible, industrial buildings shall provide a primary entrance that faces and opens directly onto the adjacent street sidewalk or a walkway, plaza or courtyard that has direct linkage to the street sidewalk without requiring pedestrians to cross any intervening driveways or parking lots. The following exceptions shall be permitted to this standard:
 - i. Buildings may orient away from the street if the development provides a campus or park-like development block with a unifying, formative internal framework of outdoor spaces and connecting walkways that function as an alternative to street sidewalks by connecting buildings within the site and directly connecting to common destinations in the district (such as transit stops, restaurants, child care facilities and convenience shopping centers). Such an internal network shall provide direct pedestrian access to the street sidewalk.
 - ii. Acceptable building materials include brick, CMU block, wood, vinyl, stucco, stone and other materials similar in type. Prefabricated buildings and metal buildings are not permitted.
- (14) Wireless telecommunications
- (a) Wireless telecommunication equipment includes a ground-mounted base station which must be used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.
 - (b) Height and setback requirements
 - i. Roof or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two and one-half (2 ½) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval.
 - ii. Roof- or building-mounted whip antennae of no more than three (3) inches in diameter, in groupings of five (5) or less, may extend up to twelve (12) feet above the parapet wall
 - iii. All freestanding facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.
 - (c) Accessory buildings requirements
 - i. Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low-maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.
 - ii. Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.
 - (d) Building- or roof-mounted facilities requirements

- i. Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.
 - (e) Freestanding wireless telecommunications facilities requirements
 - i. All freestanding wireless telecommunications facilities shall be designed and constructed in such a manner that they are:
 - 1. Capable of serving, through original construction, expansion or replacement, a minimum of two (2) users;
 - 2. Constructed as a monopole, which tapers toward the top of the pole to the degree allowed by structural requirements, unless some other decorative type of structure is proposed and approved;
 - 3. Of a neutral color, including fencing, buildings and cabinets, or to match existing buildings;
 - 4. Hold only lighting required by the Federal Aviation Administration; and no signage;
 - 5. No higher than fifty (50) feet from the ground, with an additional twenty (20) feet per co-locating user permitted, up to seventy (70) feet. Exceptions may be granted upon request by the applicant; and
 - 6. Constructed in accordance with a certified engineer's specifications and in compliance with all applicable U.B.C. provisions.
 - (f) Conditional mitigation measures co-location.
 - i. The Town encourages co-location of wireless telecommunications facilities to minimize the number of sites.
 - ii. No wireless telecommunications facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan.
- (15) Development standards for RV, boat and truck sales
 - (a) Not more than one (1) vehicle display pad, which may be elevated up to three (3) feet in height as measured at the highest point, shall be permitted per one hundred (100) feet of road frontage.
 - (b) No other materials for sale shall be displayed between the principal structure and the right-of-way.
 - (c) Vehicles shall be stored on paved parking surfaces.
 - (d) No bay door shall orient directly towards residential, public open space or right-of-way unless there is an intervening building located between the use and the residential/public space.
 - (e) If washing areas are provided, these areas shall be covered and have drains connected to the sanitary sewer system. The drains shall be constructed with an oil/water separator. All treatment facilities shall be approved by the Town Engineer. (Ord. 755 §6, 2004)
- (16) Home Occupations
 - (a) Medical, dental and real estate offices are not permitted as home occupations.
 - (b) In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one (1) outside employee in the home occupation.
 - (c) The employee and clients may park in on-street curbside parking spaces.

- (d) The home occupation shall not exceed one thousand (1,000) square feet or thirty percent (30%) of the total square footage of the dwelling, whichever is less, or can be located in an accessory building not to exceed five hundred (500) square feet.
- (e) All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.
- (f) The maximum number of clients which may visit the home occupation per day is ten (10).

Sec. 3.5. Density and Dimensional Standards.

The following specifications shall be required in the zones identified:

1. Residential density and dimensional standards:

Table 3-3 RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS						
Zones Standards	ES	R-1	R-2	R-3	R-MH1	R-MH2
Minimum lot area per dwelling	10,000*	6,250	1,800	1,800 for townhomes 6,250 for apartments and condos	4,000	6,250
Maximum net density (units per acre)	.2**	5	10	25	8	5
Minimum lot width (feet per dwelling)	140	50	20	20 for townhomes 60 for apartments and condos	50	50
Minimum lot frontage (feet)	70	40	18 for townhomes 35 for apartments and condos	35	40	40
Minimum front yard setback (feet)						
Principal building	25	15	15	15	15	15
Front-loaded garage	29	19	19	19	19	22
Accessory building	60	55	45	45	40	55
Minimum side yard setback						
Note: For corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.						
Principal building	25	5	8	8	10	5
Accessory building	35	10	15	15	15	15
Minimum distance between buildings	25	10	Subject to building codes	Subject to building codes	15	10

Minimum rear yard setback						
Principal building	20	20	20	20	20	20
Garage with its entrance facing an alley	10	5	5	5	5	5
Accessory buildings	5	5	5	5	5	5
Minimum floor area per dwelling unit (square feet)	1500	850	600	400	864	864
Maximum building height	35	35	35	35	35	35
<p>* The minimum lot size is ten thousand (10,000) square feet if adjacent to open space and fifteen thousand (15,000) square feet if not directly adjacent to open space.</p> <p>** The maximum density is no more than one (1) single-family dwelling per five (5) acres, except that if the Town approves a conservation density bonus, the maximum density allowed shall be no more than one (1) single-family dwellings per two (2) acres. This must have at least fifty percent (50%) of the land preserved as agricultural lands or open space.</p>						

2. Commercial, Industrial, Agricultural, Public and Hazard Overlay density and dimensional standards:

The following codes are used in the table below:

Ag = Agricultural structure
SFR = Single-family residence

Table 3-4 COMMERCIAL, INDUSTRIAL, AGRICULTURAL, PUBLIC AND HAZARD DENSITY AND DIMENSIONAL STANDARDS								
Zones	D	C	CC	C-H52	I	BLI	A	P
Minimum front yard setback (feet)	0	0	15	15	25	25	30	25
Maximum front yard setback (feet)	10	10	0	0	0	0	0	0
Minimum rear yard setback (feet)	0	0	15	15	20	20	20	10
Maximum floor area ratio (ratio of total floor area to total lot area)	2:1	2:1	2:1	1:1	1:1	1:1	n/a	1:1
Maximum building height (feet) [1]	40	40	40	40	50	50	50 Ag 35 SFR	40
Maximum ground level footprint (square feet)	5000	0	0	0	0	0	0	0

Notes to Table 3-4

- [1] The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height.

3. Setback requirements.

- a. On "double frontage" lots (see Figure 2-7 in Article 2 Section 8), both streets shall be considered street frontages for purposes of calculating front yard setbacks.
- b. On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.
- c. For purposes of setback calculations, a two-family dwelling shall be construed as one (1) building occupying one (1) lot.
- d. On a vacant lot bordered on two (2) sides by previously constructed legal nonconforming buildings which do not meet the required front yard setback for the zoning district, the required front yard setback for the vacant lot shall be calculated as the average front yard setback of the two (2) adjacent buildings. Where a vacant lot is bordered on only one (1) side by such a legal nonconforming building, the required front yard setback shall be calculated as the average of the front yard setback of the adjacent building and the minimum front yard setback for the zoning district.
- e. Permanent features allowed within setbacks shall include:
 - (1) Cornices, canopies, eaves or other similar architectural features if they extend no more than two (2) feet into a required setback and if they do not encroach into or overhang an easement.
 - (2) Steps or ramps to the principal entrance and necessary landings, provided that they do not extend more than six (6) feet into the required setback.
 - (3) Landscaping.
 - (4) Fences and walls, subject to height and other restrictions per Article 2 Section 18.
 - (5) Utility service lines to a structure and utility lines, wires and associated structures within a utility easement.
 - (6) Fire escapes, provided that they do not extend more than six (6) feet into the required setback.
 - (7) Uncovered patios, porches and decks not more than thirty (30) inches above grade, provided that they do not extend more than thirty percent (30%) of the required setback distance into the required setback area.
 - (8) Covered patios, porches and decks attached to residential dwellings greater than thirty (30) inches in height may extend no more than five (5) feet into a required front or rear setback or five (5) feet into a required side yard setback adjacent to a street, provided that they do not encroach into or overhang an easement or property line and do not obstruct any sight distance triangle.

(Ord. 703 §13, 2003)

This section to be moved to the development review section in further amendments.

Sec. 3.6. Conditional Uses.

1. Purpose.

- a. In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific

conditional uses for each zone district are listed in the Matrix of Permitted Uses by Zoning District at Section 3.4.

- b. Because of their unusual or special characteristics, conditional uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties. The review process prescribed in this Section is intended to ensure compatibility and harmonious development between conditional uses, surrounding properties and the Town at large. Conditional uses may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria. The scope and elements of any conditional use may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for conditional use permits shall be denied.

2. Conditional use review process.

- a. Step 1: Pre-application conference. The applicant shall attend a pre-application conference with a representative from the Town. The purpose of the meeting is to discuss the conditional use submittal requirements and review process.
- b. Step 2: Conditional use application submittal. The applicant shall submit the appropriate complete conditional use application package to the Planning Department and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Conditional use requests submitted in conjunction with a preliminary plat or site plan shall include:
 - (1) Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
 - (2) Stand-alone conditional use requests shall include:
 - (a) Land use application form.
 - (b) Title commitment. The title commitment must be current and dated no more than thirty (30) days from the date of the conditional use application submittal.
 - (c) Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
 - (d) A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped area and utilities and drainage features.
 - (e) Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
 - (f) Such additional material as the Planning Director may prescribe or the applicant may submit pertinent to the application.
 - (g) Surrounding and interested property ownership report. Provide the Planning Director with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
 - (h) Public hearing notification envelopes. One (1) set of stamped and addressed envelopes. The envelopes shall have the Town's address as the return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of

record, oil and gas lessees for the property and the appropriate referral agencies.

- c. Step 3: Conditional use application certification of completion and report to Planning Commission. Within a reasonable period of time, Town staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Conditional Use Technical Criteria form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink. After a complete application is received, Town staff shall prepare a report to the Planning Commission explaining how the application is or is not consistent with the conditional use application review criteria.
 - d. Step 4: Planning Commission review of conditional use application. The Planning Commission shall hold a meeting to review the application and determine if the application complies with the conditional use review criteria. The Planning Commission will then recommend to the Board of Trustees approval, approval with conditions or denial.
 - e. Step 5: Set conditional use public hearing date and notify public of hearing. The Planning Director shall send a "notice of public hearing" to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record and oil and gas lessees for the property not less than fifteen (15) days before the Planning Commission public hearing. The Town Clerk shall publish notice in a newspaper of general circulation not less than fifteen (15) days before the date of the public hearing. The referral information shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. The Planning Director shall prepare a public hearing notification sign to be posted on the property by the applicant not less than fifteen (15) days before the public hearing. If the conditional use request is accompanying another application which is scheduled for public hearing before the Board of Trustees, one (1) public hearing may be held on both applications. Notice provided by the Town to the owners of the minerals estate and their lessees shall not relieve the petitioner from the responsibility of providing notice as required by Section 24-65.5-101 et seq., C.R.S.
 - f. Step 6: Board of Trustees public hearing and action on conditional use. The Board of Trustees shall hold a public hearing on the conditional use application. Following the public hearing, the Board of Trustees may approve, conditionally approve or deny the conditional use application based on the conditional use review criteria. A conditional use permit may be revocable, may be granted for a limited time period or may be granted subject to conditions as the Board may prescribe. Conditions may include, but shall not be limited to: requiring special setbacks, open spaces, fences or walls, landscaping or screening, street dedication and improvement, regulation of vehicular access and parking, signs, illumination, hours and methods of operation, control of potential nuisances, prescription of standards for maintenance of buildings and grounds, and prescription of development schedules.
3. Conditional use review criteria. The Town shall use the following criteria to evaluate the applicant's request:
- a. The conditional use will satisfy all applicable provisions of this Code and subdivision regulations unless a variance is being requested.

- b. The conditional use will conform with or further the goals, policies and strategies set forth in the Comprehensive Plan.
- c. The conditional use will be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
- d. The conditional use will not substantially alter the basic character of the district in which it is located or jeopardize the development or redevelopment potential of the district.
- e. The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- f. Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The applicant shall satisfactorily address the following impacts:
 - (1) Traffic;
 - (2) Activity levels;
 - (3) Light;
 - (4) Noise;
 - (5) Odor;
 - (6) Building type, style and scale;
 - (7) Hours of operation;
 - (8) Dust; and
 - (9) Erosion control.
- g. The applicant has submitted evidence that all applicable local, state and federal permits have been or will be obtained. (Ord. 669 §2, 2002)

This section to be moved to the development review section in further amendments.

Sec. 3.7. Nonconforming Uses.

1. Requirements for nonconforming uses. Except as provided in this Section, the lawful use of any building or land existing at the time of enactment of this Article, or of any amendments to this Chapter, may be continued even though such use does not conform to the requirements of this Code.

Abandonment means whenever a nonconforming use has been discontinued for a period of one hundred eighty (180) days, such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Article.

Completion means that any building or structure for which a building permit has been issued prior to the date of enactment of this Article may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is commenced within sixty (60) days after the issuance of said permit and diligently prosecuted to completion.

Displacement means no nonconforming use shall be altered, extended or restored so as to displace any conforming use. A trailer house in any district may be improved or replaced with a newer model trailer house.

Extensions means a nonconforming use shall not be extended, but the extension of a conforming building shall not be deemed the extension of such nonconforming use; however, businesses in R-1 and R-2 zones shall not be extended under any circumstances.

Repairs and maintenance means that ordinary repairs and maintenance of a nonconforming building shall not be deemed an extension of such nonconforming building and shall be permitted.

Restoration means a nonconforming building which has been damaged by fire or other causes and which may be restored to its original condition, provided that such work is commenced within one hundred eighty (180) days of such calamity and less than fifty percent (50%) of the building is destroyed.

Unsafe buildings means any nonconforming building or portion thereof declared unsafe by the Building Inspector, which may be replaced, strengthened or restored to a safe condition.

2. Termination of nonconforming uses within five (5) years. The following nonconforming uses shall be terminated within five (5) years from the date of passage of the ordinance codified in this Article, in any district except that in which they are specifically allowed:
 - a. Auto salvage wrecking or similar salvage operations.
 - b. Mobile homes and house trailers.
 - c. Extractive land use.
 - d. Landfills.
 - e. Hazardous waste disposal site.

The five-year period is designated as an amortization period during which the market value of the property and use can reasonably be amortized. The owner of property or user shall have four (4) years from the date of the passage of the ordinance codified in this Code to submit to the Board of Trustees an appeal setting forth his or her grounds asserting that the five-year period is an inadequate amount of time to amortize the nonconforming use.

This section to be moved to the development review section in further amendments.

Sec. 3.8. Appeals and Variances.

1. Purpose. The Board of Trustees, sitting as a Board of Adjustment, shall hear and decide appeals from any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Code. In addition, the Board of Adjustment shall hear and decide all requests for a variance from the requirements of this Code. Such variance shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

2. Appeal application. Any aggrieved person of interest may appeal a denial of a building or other development permit or any order, requirement, decision, interpretation or determination made by an administrative official charged with the enforcement of this Code.
 - a. An appeal to the Board shall be made within thirty (30) days after denial of a building permit or other development permit, or receipt of a written notice of an order, requirement, decision, interpretation or determination by an administrative official of the Town. Failure to make a timely appeal shall be considered a waiver of the appellant's rights to appeal to the Board of Adjustment.
 - b. The applicant shall file with the Town Clerk a written notice of appeal on a form approved by the Board and pay the fee set by the current fee schedule.
 - c. The Town Clerk shall forward a copy of the notice of appeal to the planning staff or other appropriate administrative officer, who shall prepare a record of the Town action that is being appealed for consideration by the Board.
3. Variance application. Any person of interest or an officer or department of the Town may apply to the Board for a variance from the literal interpretation of the provisions this Code.
 - a. Variances requests in conjunction with other applications. The applicant shall submit the following to the Town Clerk in conjunction with the other application (i.e., preliminary plat or site plan): Explanation letter, identifying the variance being requested, a citation of the portion of this Code from which relief is requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the variance. The letter shall also address how the variance, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
 - b. Stand-alone variance requests. If the variance request is not accompanying another application which graphically depicts the variance (such as a preliminary plat or site plan), the applicant shall submit the following to the Town Clerk:
 - (1) Land use application form.
 - (2) Variance, Technical criteria form (from Workbook).
 - (3) Title commitment. The title commitment must be current and dated no more than thirty (30) days from the date of preliminary plat application submittal.
 - (4) Explanation letter. See above.
 - (5) Map. Staff will dictate map requirements based on the variance being requested. The map shall typically consist of a scale drawing depicting the property affected by the variance request, including but not limited to required or existing setbacks and proposed setbacks from adjacent lot lines or structures and any other information that will assist the Board in understanding the request.
 - (6) Surrounding and interested property ownership report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
 - (7) Public hearing notification envelopes. Provide the Town Clerk with one (1) set of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the return address and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property),

mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.

4. Set variance public hearing date and notify public of hearing. The Town Clerk shall send a "notice of public hearing" to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record and oil and gas lessees for the property not less than fifteen (15) days before the Board of Adjustment public hearing, and to the appropriate referral agencies not less than twenty-one (21) days before the public hearing. The Town Clerk shall also publish notice in a newspaper of general circulation not less than fifteen (15) days before the date of the public hearing. The Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant not less than fifteen (15) days before the public hearing. If the variance request is accompanying another application which is scheduled for public hearing before the Board of Trustees, separate public hearings shall be held on each application, although they may be held on the same day. Notice provided by the Town to the owners of the minerals estate and their lessees shall not relieve the petitioner from the responsibility of providing notice as required by Section 24-65.5-101 et seq., C.R.S.
5. Board of Adjustment public hearing and action on appeal or variance request. The Board of Trustees, sitting as a Board of Adjustment, shall make a decision on appeal and variances at a regular meeting of the Board of Trustees.
 - a. The appellant, or the applicant for a variance, has the burden of proof to establish the necessary facts to warrant favorable action of the Board.
 - b. The Board shall have all the powers of the applicable Town administrative official on the action appealed. The Board may in whole or in part affirm, reverse or amend the decisions of the applicable Town administrative official.
 - c. The Board may impose reasonable conditions in its order to be complied with by the appellant in order to further the purposes and intent of this Code.
 - d. The Board may impose any reasonable conditions on the issuance of a variance and may amend the variance from that requested.
 - e. No single decision of the Board sets a precedent. The decision of the Board shall be made on the particular facts of each case.
 - f. Variances granted by the Board of Adjustment shall be recorded with the County Clerk and Recorder at the expense of the applicant.

Any appeal of the decision of the Board of Adjustment may be made to the District Court as provided by law; provided however, that such appeal must be made prior to thirty (30) days following the date of the final action taken by the Board of Adjustment, as provided by Rule 106, Colorado Rules of Civil Procedure.

6. Appeal criteria for approval. The Board, in hearing an appeal from an interpretation of this Code, shall consider:
 - a. The technical meaning of the provision being appealed;
 - b. Evidence of the manner in which the provision has been interpreted in the past;

- c. The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and
- d. The intent of the provision in implementing the Comprehensive Plan.

In approving a requested interpretation, the Board shall provide a written record of its findings and the staff shall use it to propose amendments that address future interpretation problems.

7. Variance criteria for approval.

- a. The Board shall not grant a variance to this Code which:
 - (1) Permits a land use not allowed in the zoning district in which the property is located;
 - (2) Is in the public right-of-way or on public property;(3) Alters any definition of this Code;
 - (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of this Code;
 - (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to of this Code; or
 - (6) Is based exclusively on findings of personal or financial hardship. Convenience, profit or caprice shall not constitute undue hardship.
- b. In order to grant a variance to this Code, the Board shall find that all the following have been satisfied:
 - (1) That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical condition particular to the affected property;
 - (2) That, because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of this Code;
 - (3) That, due to such unique physical circumstances or conditions, the strict application of this Code would create a demonstrated hardship;
 - (4) That the demonstrable hardship is not self-imposed;
 - (5) That the variance, if granted, will not adversely affect the proposed development or use of adjacent property or neighborhood;
 - (6) That the variance, if granted, will not change the character of the zoning district in which the property is located;
 - (7) That the variance, if granted, is in keeping with the intent of this Code; and
 - (8) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of the Town.

The condition of any variance authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth.

(Ord. 669 §3, 2002)

This section to be moved to the development review section in further amendments.

Sec. 3.9. Waivers.

- 1. Purpose. The Board of Trustees authorizes waivers from the Land Use Code in cases where, due to exceptional conditions peculiar to the site, practical difficulties or an unnecessary hardship is placed on

the landowner. Such waiver shall not be granted if it would be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

2. Waiver application; waiver requests in conjunction with other applications. The applicant shall submit the following to the Town Clerk in conjunction with another application (i.e., zoning amendment): Explanation letter, identifying the waiver being requested and explaining what exceptional condition, practical difficulty or unnecessary hardship exists to require the waiver. The letter shall also address how the waiver, if granted, will not be detrimental to the public good, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
3. Waiver criteria for approval. The condition of any waiver authorized shall be stated in writing in the minutes of the Board of Trustees with the justifications set forth. Waivers may be granted only if they meet the following criteria:
 - a. The waiver, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property.
 - b. The waiver, if granted, is the minimum variance that will afford relief and is the least modification possible of the subdivision ordinance provisions which are in question.
 - c. Such practical difficulties or unnecessary hardship has not been created by the applicant.

This section to be moved to the development review section in further amendments.

Sec. 3.10. Amendments.

1. Initiation of amendments to text or official zoning map. The Board of Trustees may, from time to time, amend, supplement, change or repeal the regulations and provisions of this Code. Amendments to the text of the zoning code may be initiated by the Board of Trustees, Town staff or Planning Commission, or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Board of Trustees, Town staff, the Planning Commission, or a real property owner in the area to be included in the proposed amendment.
2. General rezoning of Town. Whenever the zoning district map is in any way to be changed or amended incidental to or as part of a general revision of the zoning code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in the area of, the proposed change shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.
3. Zoning amendment application process.
 - a. Step 1: Optional preapplication conference. The applicant may attend a preapplication conference with a representative from the Town. The purpose of the meeting is to discuss the zoning amendment, submittal requirements and review process.
 - b. Step 2: Zoning amendment application submittal. The applicant shall submit one (1) copy of the complete zoning amendment application package to the Town Clerk and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Note: In the case of text amendments, only Items a and b are required.

- (1) Completed land use application form, Zoning Amendment – Technical Criteria form (see Workbook), application fee and fee agreement;
- (2) A written description of the proposed change to the text of this Article, including the citation of the portion of the Article to be changed and the wording of the proposed change. The description must provide the rationale for the proposed change, citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rational of the proposed change. Particular attention should be given to addressing the criteria listed in Subsection (e) below.
- (3) A legal description for all property to be considered for rezoning;
- (4) Current proof of ownership in the form of title insurance issued within thirty (30) days of submission of the application (for zoning map amendments only).
- (5) A zoning amendment map of the area included in the proposed change, twenty-four (24) inches high by thirty-six (36) inches wide, with the following information:
 - (a) North arrow, scale (1" = 100' or 1" = 200') and date of preparation.(b) The subdivision or block and lot name of the area to be zoned (if applicable) at the top of each sheet.
 - (c) Legal description of the area to be zoned (entire area and individual zoning districts). In unsubdivided property, zone boundaries shall be determined by a metes and bounds description.
 - (d) Location and boundaries, including dimensions, of the property proposed for rezoning. Note: Zone boundaries are to be the centerlines of physical streets, roads, highways, alleys, railroad rights-of-way and channelized waterways, or such lines extended.
 - (e) The acreage or square footage contained within the property proposed for rezoning.
 - (f) All existing land uses in the proposed rezoning area.
 - (g) Zoning and existing land uses on all lands adjacent to the proposed rezoning.
 - (h) The location and dimensions for all existing public rights-of-way including streets, and centerlines of water courses within and adjacent to the rezoning.
 - (i) The names of all adjoining subdivisions with lines of abutting lots, and departing property lines of adjoining properties not subdivided.
 - (j) Certificate blocks for Surveyor, Planning Commission, Board of Trustees and County Clerk and Recorder (see Workbook for examples).
 - (k) An AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM formatted disk or other acceptable electronic transfer shall also be provided.
- (6) A written statement describing the proposal and addressing the following points:
 - (a) Need for the proposed rezoning;
 - (b) Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area;
 - (c) Impact of the proposed zone on area accesses and traffic patterns;
 - (d) Availability of utilities for any potential development;
 - (e) Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools and transit;
 - (f) The relationship between the proposal and the Comprehensive Plan; and
 - (g) Public benefits arising from the proposal.
- (7) Surrounding and interested property ownership report. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, mineral and oil and gas lessees for the property and

appropriate ditch companies. The applicant shall certify that the report is complete and accurate.

- (8) Public hearing notification envelopes. Two (2) sets of stamped, addressed, certified (return receipt requested) envelopes. The envelopes shall have the Town's address as the return address, and the envelopes shall be addressed to the surrounding property owners (within three hundred [300] feet of the property), mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies. It is the applicant's responsibility to ensure that accurate and complete information is provided.
- c. Step 3: Zoning amendment application certification of completion. Within a reasonable period of time, Town staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Zoning Amendment – Technical Criteria form) to the Town Clerk. The original application and all documents requiring a signature shall be signed in blue ink.
 - d. Step 4: Final staff review and report to Planning Commission. Town staff shall complete a final review of the resubmitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the criteria for amendments to the official zoning map or criteria for amendments to the text of the zoning code.
 - e. Step 5: Set zoning amendment public hearing and complete public notification process. The Town Clerk shall send a "notice of public hearing" to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record and oil and gas lessees for the property not less than fifteen (15) days before the Planning Commission public hearing, and to the appropriate referral agencies not less than twenty-one (21) days before the public hearing. The Town Clerk shall also publish notice in a newspaper of general circulation not less than fifteen (15) days before the date of the public hearing. Such notice shall not be required for text amendments. For zoning map amendments, the Town Clerk shall prepare a public hearing notification sign to be posted on the property by the applicant not less than fifteen (15) days before the public hearing, except in the instance of a general rezoning of the Town when no posting of property is required. If the zoning amendment request is accompanying another application which is scheduled for public hearing before the Planning Commission, one (1) public hearing may be held on both applications. Notice provided by the Town to the owners of the minerals estate and their lessees shall not relieve the petitioner from the responsibility of providing notice as required by Section 24-65.5-101 et seq., C.R.S.
 - f. Step 6: Planning Commission public hearing and action on zoning amendment. The Planning Commission shall hold a public hearing to review the zoning amendment based on the criteria for amendments to the official zoning map or the criteria for text amendments to the zoning code. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve or deny the zoning amendment application.
 - g. Step 7: Finalize zoning amendment based on Planning Commission comments. The applicant shall revise the zoning amendment application based on the Planning Commission's comments and submit it to the Town.
 - h. Step 8: Notify parties of interest. Not less than fifteen (15) days before the date scheduled for the initial Board of Trustees public hearing, Town staff shall notify: surrounding property

owners within three hundred (300) feet, mineral interest owners of record, mineral and oil and gas lessees for the property and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. Such notice shall not be required for text amendments.

- i. Step 9: Set Board of Trustees public hearing and complete public notification process. The Board of Trustees shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Clerk shall publish notice in a newspaper of general circulation not less than fifteen (15) days before the date of the hearing.
 - j. Step 10: Board of Trustees public hearing and action on zoning amendment. The Board of Trustees shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board of Trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed below and approve, approve with conditions or deny the application, in whole or in part.
 - k. Step 11: Post-approval actions.
 - (1) Upon approval of an amendment to the official zoning map by the Board of Trustees, the Town Clerk shall cause an appropriate revision of the official zoning map to be prepared for recording with the County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.
 - (2) Upon approval of an ordinance amending, changing or repealing part of the text of this Article, the Town Clerk shall certify a copy of the ordinance, place it in the official records of the Town and make appropriate supplements to this Code.
 - (3) The applicant initiating the official zoning map amendment shall have thirty (30) days after approval of the amendment by the Board of Trustees to submit to the Town Clerk two (2) original drawings of the approved zoning amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. The zoning amendment map shall be prepared by a licensed surveyor or engineer. Inaccurate, incomplete or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one (1) 11" x 17" Mylar reduction of the zoning amendment map and an AutoCAD™ drawing file (Release 12 or higher) of the zoning amendment map on 3½" IBM formatted disk, or other acceptable electronic transfer.
 - (4) Within thirty (30) days of receipt of the zoning amendment map, the Town Clerk shall review the documents for compliance with the Board of Trustees' approval, obtain the Town Officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the County Clerk and Recorder for recordation.
4. Criteria for amendments to official zoning map. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:
- a. To correct a manifest error in an ordinance establishing the zoning for a specific property;
 - b. To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;

- c. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;
- d. The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;
- e. The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
- f. A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map.

- 5. Criteria for text amendments to zoning code. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the text of this Code shall not be amended except:
 - a. To correct a manifest error in the text of this Code;
 - b. To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff;
 - c. To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or
 - d. To further the implementation of the goals and objectives of the Comprehensive Plan.
- 6. Map; amendment upon zoning establishment or modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated, current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment and the initials of the person who checked and approved the change to the map.

(Ord. 669 §1, 2002)

This section to be moved to the development review section in further amendments.

Sec. 3.11. Zoning and Use of Wireless Telecommunication Services, Facilities and Equipment.

- 1. Written narrative. The application shall include the following in narrative form:
 - a. The applicant's and surface owner's names, addresses, signatures and designation of agent, if applicable;
 - b. An explanation of the need for such a facility, operating plan and proposed coverage area;

- c. If a freestanding facility is proposed, an analysis of alternatives to a freestanding facility within a one-mile radius of the facility;
 - d. A list of all permits or approvals obtained or anticipated to be obtained from local, state or federal agencies other than the Federal Communications Commission (FCC);
 - e. Affirmation that the proposed facility, alone or in combination with other like facilities, will comply with current FCC standards for cumulative field measurements of radio frequency power densities and electromagnetic fields;
 - f. Affirmation that the facility will comply at all times with current FCC regulations prohibiting localized interference with reception of television and radio broadcasts;
 - g. Affirmation that the facility will not interfere with any public safety frequencies servicing the Town and its residents;
 - h. Affirmation that, if approved, the applicant and surface owner will make the facility available, on a reasonable basis, to other service providers; and
 - i. An explanation of compatibility with the Comprehensive Plan.
2. Abandonment. At the request of the Town, the operator must furnish a statement to the Town indicating the operational status of the facility. If the use has been discontinued, the date on which the facility was last used shall also be provided. Commercial mobile radio service facilities not used for a continuous period of six (6) months shall be disassembled within twelve (12) months of the last use.
 3. Penalty. Any person who constructs, installs or uses, or who causes to be constructed, installed or used, any wireless telecommunications facility in violation of any provision of this Article or of the conditions and requirement of the conditional use permit, may be punished as provided in Article 6 of this Code. Each day of unlawful operation constitutes a separate violation.
 4. Civil action. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used or any land is or is proposed to be used in violation of any provision of this Article or the conditions and requirements of the commercial mobile radio service facility special use permit, the Town Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

Sec. 3.12. Minor Modifications.

1. Applicability. The Planning Director may grant minor modifications to approved site plans, site-specific development plans, final PUD development plans, and final subdivision plats, and from specified development standards as stated in this Section.
2. Review procedures.
 - a. Concurrent review for minor modifications from development standards. Requests for minor modifications from specified development standards may be submitted concurrently with any other required development applications, such as applications for preliminary subdivision plat

approvals, conditional uses or site plans. In such cases, the Planning Director shall review and take action on the minor modification during the review of the primary development action.

- b. All other requests for minor modifications. All other requests for minor modifications shall follow the following procedure:
 - (1) Preapplication process.
 - (2) Neighborhood meeting (at Planning Director's discretion).
 - (3) Notify adjacent property owners of proposal via United States mail.
 - (4) Submit application/completeness determination.
 - (5) Planning Director and (optional) DRC preliminary review.
 - (6) (Optional) DRC response meeting.
 - (7) Submission of revised application in response to DRC review.
 - (8) DRC review and final recommendation.
 - (9) Planning Director final action.

3. Limitations on authority.

- a. Minor modifications to approved site plans, final PUD development plans, final plats, and other approved final plans. The Planning Director may grant minor modifications to an approved final site or development plan, including final subdivision plats. In no circumstance, however, shall the Planning Director approve a plan or plat modification that results in:
 - (1) An increase in building height;
 - (2) An increase in the floor area ratio (FAR) by greater than ten percent (10%) as calculated on a total project basis;
 - (3) A change in permitted uses or mix of uses if the proposed uses are more intensive than the approved uses;
 - (4) An increase in overall project density; or
 - (5) A change that would require resubdivision or a boundary/lot line adjustment.
- b. Minor modifications from development standards. The Planning Director may grant minor modifications up to a maximum of twenty percent (20%) from the following development standards:
 - (1) Minimum lot area requirements.
 - (2) Building setback requirements.
 - (3) Driveway access standards.
 - (4) Tree/vegetation protection standards.
 - (5) River/stream corridor, riparian area, or wetland setback requirements.
 - (6) Landscaping/buffer yard standards.
 - (7) Amount of off-street parking space requirements.
 - (8) Any other numeric standard stated in Article 2 (Community Design Principles and Development Standards), Article 3 (Zoning), Article 4 (Subdivision Regulations) or Article 7 (Signs), except for building height standards.
- c. Minor modifications for alternative compliance. The Planning Director shall have the authority to grant minor modifications to any design standard stated in Article 2 (Community Design Principles and Development Standards) or Article 3 (Zoning) of this Land Use Code in order to encourage the implementation of alternative or innovative practices that provide equivalent benefits to the public.

- d. Minor modifications to ensure compliance with the Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA).
 - (1) Generally. The Planning Director shall have the authority to grant minor modifications to any use or development standard stated in Article 2 (Community Design Principles and Development Standards) or Article 3 (Zoning) of this Land Use Code in order to eliminate a substantial burden on religious exercise as guaranteed by RLUIPA, as amended.
 - (2) Limitations. In no circumstance shall the Planning Director approve a modification that allows a religious assembly use, or any uses/structures/activities accessory to it, in a zoning district where Article 3 (Zoning) prohibits such use or accessory use/structure/activity.
- e. Conditions of approval. In granting a minor modification, the Planning Director may require conditions that will secure substantially the objectives of the modified standard and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties, including but not limited to additional landscaping or buffering.

4. Review criteria. The Planning Director may approve minor modifications only upon finding that:

- a. The modification is necessary to satisfy the federal requirements for reasonable accommodation of housing for protected groups under the Federal Fair Housing Amendments Act; or
- b. The modification is necessary to eliminate a substantial burden on religious exercise as guaranteed by the federal RLUIPA of 2000; or
- c. All of the following criteria have been met:
 - (1) The requested modification is generally consistent with the Frederick Comprehensive Plan and is consistent with the stated purposes of this Land Use Code;
 - (2) As applicable, the requested modification is consistent with the approved final plan or plat;
 - (3) The requested modification eliminates an unnecessary inconvenience or practical difficulty to the applicant and will have no significant adverse impact on the health, safety or general welfare of surrounding property owners or the general public;
 - (4) Any adverse impacts resulting from the minor modification will be mitigated to the maximum extent practical; and
 - (5) The requested minor modification is either:
 - (a) Of a technical nature and is required to compensate for some practical difficulty or unusual aspect of the site or the proposed development that is not shared by landowners in general; or
 - (b) An alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard sought to be modified.

Practical difficulties. In determining *practical difficulty*, the Planning Director shall consider and apply the factors stated in Article 3 Section 7.b of the Land Use Code (review criteria for variances).

5. Effect of approval.

- a. Minor modifications to approved plans/plats. Modifications to an approved site plan, site specific development plan, final PUD development plan or final subdivision plat shall be noted on a revised plat or plan, which shall be plainly marked as *amended* and submitted to the Planning Director. The Planning Director shall note the terms of the approved minor

modification directly on the amended plat or plan, and the Planning Director's signature and the date of approval shall be affixed. As applicable, such amended plan/plat shall be recorded within thirty (30) days of the Planning Director's approval of the modification.

- b. Noted on pending application. The Planning Director shall specify any approved minor modifications from general development or zoning district standards and justifications for such modification on the pending development application for which the modifications were sought. Alternately, the Planning Director may include such final determination, in writing, as part of the required DRC report.
- c. As applicable, an approved minor modification shall be valid for the same time frame as the development approval with which it was joined or for the same time frame as the originally approved final plat or plan.
- d. In all other cases, an approved minor modification shall be valid for six (6) months, during which time the applicant shall commence substantial construction. If these actions are not taken within the six-month time period, the minor modification approval shall automatically lapse and be null and void. (Ord. 807 §1, 2005)

(Ord. 703 §7, 2003; Ord. 763 §1, 2004; Ord. 868, 2006; Ord. 875 2007)